

Maricruz Hinojoza et al.  
Applicants

v.

Republic of Fiscalandia  
Respondent

MEMORIAL FOR THE STATE

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I. MARIANO REX, MAGDALENA ESCOBAR, AND MARICRUZ HINOJOZA  
FAILED TO EXHAUST DOMESTIC REMEDIES, THUS THE MERITS OF THE  
CASE SHOULD NOT BE CONSIDERED.

A. Domestic remedies were not exhausted in relation to each of the Petitioners  
actions

*a. Rex failed to exhaust domestic remedies by not bringing any domestic legal action to*

*D*

RESPECT AND GURANTEE HUMAN RIGHTS AND THE PRINCIPLE OF  
EQUALITY AND NON- DISCRIMINATION.

A. Fiscalandia did not deprive Escobar of her Article 24 right to equal protection when it authorized the creation of the nominating board for the selection of a new Prosecutor General because nominating a suitable head of office to replace a senior official whose term of office had expired served a legitimate state purpose in furtherance of an aim in accordance with international law norms

% The selection process of the appointment of Prosecutor General did not violate Article 24 in relation to Hinojoza and Mastro because President Obregón selected the Prosecutor General after prior scrutiny by an independent entity comprised of both state and civil society members to ensure impartiality and equal access to public office

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III. FISCALANDIA PROVIDED PETITIONERS WITH JUDICIAL GURANTEES  
AND EFFECTIVE LEGAL RECOURSE CONSISTENT WITH ARTICLE 8 AND 25.

A. Fiscalandia did not violate Article 8.1 and 25 of the Convention in relation to



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*Edward v. United Kingdom* (XU &W + 5 VHU \$ 1R %

*Fermín Ramírez v. Guatemala, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R*

VHU & 1R -XQH

, \$&+5 \$GPLVVLELOLW\ 5HSRUW 1R 7 ð p 0A W L W P L R Q À ð

*J. v. Peru* 3UHOLPLQDU\ 2EMHFWLRQV 0HULWV 5HSDUDWLRQV  
1R 1RY

*Kurbogaj v. Spain* 'HFLVLRQ DGRSWHG -XO\

*Loayza Tamayo v. Peru* 0HULWV \$P & QWHU5 VHU & 1R 6HSW

*Mémoli v. Argentina* 3UHOLPLQDU\ 2EMHFWLRQV 0HULWV 5HSDUDWLRQV  
\$P & W + 5 VHU & 1R \$XJ

5HSRUW 1R & D *María Eugenia Morales de Sierra*. \*XDWHPDOD -DQXDU

5HSRUW 1R & DVH 0HULWV *María Eugenia Morales de Sierra* \*X

5HSRUW 1R & DVH 0HULWV *Adán Guillermo López Lone et al. v. Honduras*

1RYHPEHU

5HSRUW 1R & D *Undocumented Workers in the United States of America*

1RYHPEHU

*Ricardo Canese vs. No. Paraguay* 0HULWV 5HSDUDWLRQV DQG & RVWV -XC

*Suárez Rosero v. Ecuador* 0HULWV -XGJPHQW ,QWHU \$P & W + 5 VH

*Tarazona Arrieta et al. v. Peru* 3UHOLPLQDU\ 2EMHFWLRQV 0HULWV 5HSDUDWLRQV

-XGJPHQW \$P & QWHU5 VHU & 1R 2FW

*Velasquez-Rodriguez v. Honduras* 0HULWV \$P , QWHU 5 VHU & 1R -XO\

*YATAMA v. Nicaragua* 3UHOLPLQDU\ 2EMHFWLRQV 0HULWV 5HSDUD  
\$P &W + 5 VHU & 1R -XQH

BOOKS, ARTICLES, AND OTHER REPORTS

\$DURQ ;DYLHU )HOOPHWK *State Regulation of Sexuality in International Human Rights Law*  
*Theory* :P 0DU\ / 5HY

\$PHULFDQ 'HFODUDWLRQ RI WKH 5LJKWV DQG 'XWLHV RI OD  
&RPPLWWHH RQ WKH (OLPLQDWLRQ RI 5DFLDO 'LVFULPLQDV  
'HQPDUN SXEOLVKHG LQ 81 'RF \$

&RPPXQLFDWLRQ 1R <LOGLULP 9LHQQD ,QWHUYHQW  
DQG WKH \$VVRFLDWLRQ IRU :RPHQ¶V \$FWHVD WR -XVWLFH  
'UDIW ,QWHU \$PHULFDQ &RQYHQWLRQ RQ 3URWHFWLRQ RI +

(XURSHDQ &RQYHQWLRQ RQ +XPDQ 5LJKWV DQG )XQGDPHQV  
&RQYHQWLRQ IRU WKH 3URWHFWLRQ RI +XPDQ 5LJKWV DQ  
)UHHGRP RI ([SUHVVLQ



, \$&+5 /HJDO 6WDQGDUGV UHQGHU (TXDOLW\ DPHULFDQV 5  
+XPDQ 5LJKWV 6\ VWHP 'HYHORS PHQW DQG \$SSOLF DWLRQ  
DSSURYHG RQ -DQXDU\

, \$&+5 7KH 5RDG WR 6XEVDQWLYH 'HPRFUDF\ :RPHQV 3R  
2(\$ 6HU / 9 ,, 'RF \$SULO

, QWSPULFDQ &RPPLVVLRQ RQ +XPDQ 5LJKWV \$FFHVVR -X  
6RFLDO DQG &XOWXUDO 5LJKWV \$ 5HYLHZ RI WKH 6WDQGDUG  
RI +XPDQ 5LJKWV 2(\$ 6HU / 9 ,, 'RF 6HSW

-XGLFLDO \*XDUDQWHHV LQ 6WDWHV RI (PHUJHQF\ \$UWV  
+XPDQ 5LJKWV \$GYLVRU\ 2SLQLRQ &W 2F5WRGHULHV \$

3ULQFLSOH RI WKH , \$&+5 V 'HFODUDWLRQ RI 3ULQFLSOHV  
7KH &RQYHQWLRQ RQ WKH (OLPLQDWLRQ RI DOO )RUPV RI '  
7KH QWHUQDWLRQDO &RYHQDQW RQ &LYLO DQG 3ROLWLFDO

COMMITTEE REPORTS

, \$&+5 \$QQXDO 5HSRUW 9ROXP , , 5HSRUW RI WKH 2IIL  
)UHHGRP RI ([SUHVVRQ &KDSWHU , , , *Report on Action with Respect to*

, \$&+5 5HSRUW RI WKH 2IILFH RI WKH 6SHFLDO 5DSSRUWHX  
<sup>3</sup>, QPHULFDQ /HJDO )UDPHZRUN 5HJDUGLQJ WKH 5LJ  
2(\$ 6HU / 9 ,, &,'+ 5(/( ,1)

, \$&+5 5HSRUW RI WKH 2IILFH RI WKH 6SHFLDO 5DSSRUWHX  
<sup>3</sup>, QWHU \$PHULFDQ /HJDO )UDPHZRUN 5HJDUGLQJ WKH 5LJ  
2(\$ 6HU / 9 ,, &,'+ 5(/( ,1)

, \$&+5 \$QQXDO 5HSRUW \$QQXDO 5HSRUW RI WKH 2IILFH  
)UHHGRP RI ([SUHVVLQR &KDSWHU ,9 7KH 5LJKW RI \$FFHY  
'RF 'HFHPEHU

, \$&+5 \$QQXDO 5HSRUW \$QQXDO 5HSRUW RI WKH 2IILFH  
)UHHGRP RI ([SUHVVLQR 2(\$ 6HU / 9 ,, 'RF 'HFHPEHU

, \$&+5 \$QQXDO 5HSRUW \$QQXDO 5HSRUW RI WKH 2IILFH  
)UHHGRP RI ([SUHVVLQR &KDSWHU ,, 7KH 5LJKW WR \$FFHY  
\$PHULFDV 2(\$ 6HU / 9 ,, 'RF 'HFHPEHU

STATEMENT OF FACTS

- A. Background on the Republic of Fiscalandia

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SDUWLFLSDWLRQ LQ WKH DSSRLQWPHQWV WKH ODZ SURYL  
WZHOYH PHPEHUV WKUHH XQLYHUVLW\ GHDQV WKUHH PHP  
\$VVRFLDWLRQ WKUHH VLWWLQJ MXGJHV DQG WKUHH PHPE  
3UHVLGHQW RI )LVFDODQG LD )XUWKHUPRUH WKH 1RPLQDV  
ZLOO EH VFUHHQH G EDVHG RQ WKH SDUWLFLSDWLRQV  
FLWLJHQ SDUWLFLSDWLRQ

1RPLQDWLQJ %RDUGV RSHUDWH LQGSHHQGHQWO\ DQG  
SDUW RI WKH 'XUWKHUPRUH' GLYHUVH FRPSRVLWLRQ RI HDFK  
PHPEHUW DUW FLYDQWV DQG DV VXFK QRPLQDWLQJ ERDUG  
DFFRXQWDELOLW\ UH\$EPRUGLQJ WDW W KH WR ERDUGLQJ %RDU  
ERDUG IXOO GLVFUHWLRQ WR GHWHUPLQH WKH HYDOXDWLRQ  
SURFHVV

7KH 2IILFH RI WKH 3URVHFXWRU \*HQHUDO LV RQH RI WH  
VXSHUYLVRU\ IXQFWLRQV RI WKH SXEOLF XPRUW VHQWLFHQ  
WKH KHDG RI WKH 2IILFH RLW KH OSHURWHIG XEV RWK HH QUHVDLG HQ  
D VKRUWOLVW RI WKUHH F QFK FK0DHLW H \*D<UDKH SXE Q





3UHVVLGHQW 2EUHJyQ H[HFVWHLRQJRHVQ LQWHUQDWLRQD  
ILJKW DJDLQVWRZHSXQLWURVHFXWRU \*HQHUDO (VFREDU RS  
NLQG RI LQWHUQDWLFRQEDUPHFKSRQVPHG WR WKH UHSRUWV  
VSHFLDO XQLW WR LQYHVWLJDWH SRVVLEOH FULPHV DOOHJ

\*LYHQ WKH VHULRXVQHVV RI WKH UHSRUWV DOOHJDWL  
YDULRXV OHYHOV RI JRYHUQPWRWBNHVLGHQW 2EUHJyQ X  
FRUUXSWLRQ ZLWKLQ WKH )LVFDODQGLDQ JRYHUQPHQW 2E  
'HFUHH RUGHULQJ WKH FUHDWLRQ RI WKH QRPLQDWLQJ ER  
DV 3URVHFXWRQ \*HQHUDO (VFREDU ILOHG D PRWLRQ WR  
DFW ZLWK WKH 7HQWK \$GPLQLVWUDWLYH &RXUW RI %HUHQ  
([WUDRUGLQDU\ 3UHVVLGHQWLDO 'HFUHH DQG VRXJKW LQMX  
VXVSHQG 2EUHJyQ VFDQGLGDWHJVDQWHGRZKHVWLMXQFWLRQ  
H[HFVWLYH EUDQFSSMDPHGVWIKLOOGHFLLVLRQDQXUHQGLQMX  
ODVHWWKH 6HFRQG &KDPEHU RI \$SSHDOV RI %HUHQD

7ZR PRQWKV ODWHU (VFREDU DQG WKH SURVHFXWRUV  
FRQIHUHQFH ZKHUH WKH\ DQQRXQFHG WKH ILOLQJ RI D IRU  
RI )LVFDODQGLD DJDLQVW WKH LQGLYLGXDOV LPSOLFDPHWG

\$IWHU WKH FRXUWV DOORZHG WKH 3UHVVLGHQWV FDOO  
FDQGLGDWH 3UHVVLGHQW 2EUHJyQ H[HFVWHG WKH ([WUDRU

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+ \SRWKHWLFDO ^  
+ \SRWKHWLFDO ^  
+ \SRWKHWLFDO ^  
*Id.*  
+ \SRWKHWLFDO ^  
+ \SRWKHWLFDO ^  
+ \SRWKHWLFDO ^

7HDP 1XPEHU

DSSRLQW WKH PHPEHUV R7 ~~MKHUHQSPHQDYLHQDERIDG~~ WLQJ E  
DQQRXQFHPHQW LQYLWLQJ DQ\RQH 1XPLU ĐU ] RPLQ•4PV•@C

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PHPEHU RI WKH QRPLQDWLQJ ERDUG WKH\ VKRXOG KDYH U  
HYDOEDWKHHGQRPLQDWLQJ ERDEHGHQ7KQVFOXGRXGORSQKWKH VKRU

2Q 6HSWHPEHU 'RPLQJR 0DUWLQHJ 30DUWLQHJ'

\*HQHUDO RI WKH 5HSXEOLF HQGLQJ (VFREDUJLWHDSSRHLQWP  
(VFREDU ZDV DVVLJQHG WR VHUYH DV D SURVHFXWRU LQ W

C. Proceedings Before the IACHR

2Q \$XJXVW (VFREDU ILOHG D SHWLWLRQ ZLWK W  
\$PHULFDQ &RQYHQWLRQKHO,\$&P5DGHLOKMHV SHWLWLRQ DGPL  
\$XJXVW LVVXHG LWV OHULWV 5HSRUW ZKHUH LW IRXC

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G X U L Q J W K H U H T X L V L W H W L P H S H U L \$ P H U L F D Q & R P P L V V L R Q R Q + X P D Q 5 L J K W V D S S O \ W K H V W D G V X F F H V V ' L Q H Y D O X D , W L R Q J B I H F W L Y M Q H V W D W H 3 D U K W \ D U J 3 W H V D Q I R U I H F W L Y H U H P H G \ F D Q Q R W E H Z K H W K H U D F R P S O D E X W U D W K H U Z K H W K H U K H L W • H • 6 D A ` X P 0 f • @ C H G A X W ñ H A ñ 3 R U Í I W ñ W F H W W W ñ H • A ñ H < d E W

LEGAL ANALYSIS

- I. MARIANO REX, MAGDALENA ESCOBAR, AND MARICRUZ HINOJO ZA FAILED TO EXHAUST DOMESTIC REMEDIES, THUS THE MERITS OF THE CASE SHOULD NOT BE CONSIDERED.

8 Q Q H U \$ U W L F D W L W L R Q B U P X V W H [ K D X V W G R P H V W L F U H I L O L Q J D S H W L W L R Q Z \* L W O K W K O I O & R W K I H V M [ R D X V W L R Q U H T X L V D S S H D O L Q J W R W K H K L J K H V W G R P H V W L F F R X U W Z L W K M X U L 6 W D W H R E M H F W V W K D W G R P H V W L F U H P H G L H V K D Y H Q R W E H S U R Y L Q J Z K L F K P B B E H V W L F R D L Q W K H + X P D Q 5 L J K W V & R P P L W \$ P H U L F D Q & R P P L V V L R Q R Q + X P D Q 5 L J K W V D S S O \ W K H V W D G V X F F H V V ' L Q H Y D O X D , W L R Q J B I H F W L Y M Q H V W D W H 3 D U K W \ D U J 3 W H V D Q I R U I H F W L Y H U H P H G \ F D Q Q R W E H Z K H W K H U D F R P S O D E X W U D W K H U Z K H W K H U K H L W • H • 6 D A ` X P 0 f • @ C H G A X W ñ H A ñ 3 R U Í I W ñ W F H W W W ñ H • A ñ H < d E W

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A. Domestic remedies were not exhausted in relation to each of the Petitioners actions.

a. *Rex failed to exhaust domestic remedies by not bringing any domestic legal action to challenge the administrative decision to remove him from office.*

5H[ IDLOHG WR H[KDXVW KLV GRPHVWLF UHPHGLHV DV F  
WR FKDOOHQJH WKH DGPLQLVWUDWLYH GHFLWURQLWR DHPR  
SHWLWLRQ ZLWK WKH &RRGVRDRE FKDOOHQJHG WKH SHQD  
UHPRYDO LPSRVHG E\ WKH 6XSUHPH &RXUW RI WKH 6WDWH  
UHFRQVLGHULWLRQHGGLDO PHWKRG LV HIIHFWLYH DV LW SU  
KH LV DEOH WR PDNH KLV FDVH DQG LI WKH 6XSUHPH &RXU  
UHLQVWDWHPHQW TXVHIIHFWLYH UHPHGLHV WHPKGLHV DY  
KLP

b. *Escobar failed to exhaust domestic remedies because the judgment on the merits of the motion to vacate had not yet been issued when Escobar filed her petition.*

%HIRUH ILOLQJ ZLWK D FRPPLVLRQ D SHWKLWRQHU P  
&RQYHQWLRQ RQ WKH (OLPLQDULRQWRILDO\$J)RLOPWR:IRPHQ  
&RPPLWWHH KDV KHOG WKDW WKH TXHVWLRQ RI ZKHWKHU  
GHWHUPLQH DW WKH WLPH RI LWV FRQVLGHUDWLRQ RI D  
VXEPLWV WKH FRPPXQLWLRQLWLRQ PXVW EH ORGJHG ZL

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7HDP 1XPEHU

PRWLRQ WR YDFDWH 7KXV WKH GRPHVWLF UHPHGLHV KDG  
ILOHG ZLWK WKH FRPPLVVLRQQR0WC ZLWK WKH H@HHHHH@H

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,Q WKL V FDVH 5H[ FRXOG KDYH ILOHG D PRWLRQ IRU U  
RI VXVSHQVLRQ ~~DIQ[GDUWHRRYDOKDW~~ DQ\ UHPHG\ KH PLJKW KD  
EHHQ DGMXGLFDWHG DW WKH ILUVW LQVWDQFH E\ WKH VDP  
WKHUHIRUH VKRXOG EH UHJDUGHG DV DQ H[FRZSWH ~~FRQDWR~~ W  
FRPSODLQDQW ~~TV~~ PHUH GRXEWV DV WR WKH HIIHFWLYHQHV  
IURP FRPSO\LQJ ZLWK WKH H[KDXVWLRQ UHTXLUHPHQW

\$GGLWLRQDOO\ )LVFODQGLD SURYLGHG (VFR ~~FRDUN~~ +LQR  
GLIIHUHQW DYHQXH V WR H[HUFLVH WKHLU ULJKWV DQG WKH  
HDFK RI WKHLU ~~GDVPHFLRQV~~ WR WKH H[KDXVWLRQ RI

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A. Fiscalandia did not deprive Escobar of her Article 24 right to equal protection when it authorized the creation of the nominating board for the selection of a new Prosecutor General because nominating a suitable head of office to replace a senior official whose term of office had expired served a legitimate state purpose in furtherance of an aim in accordance with international law norms.

7KH 6WDWH RI )LVFDODQGGLDQGLDQGELRQMRQFWLIRDDZHW\$ULW  
\$&+5 LQ UHODWLRQ WR (VFREDU EHFDXVH QRQQ RI WKH ULJ  
&RQYHQWLRQ ZHUH YLRODWHG DV D UHVXOW RI DOOHJHG D  
(VFREDU UHPDLQH G LQ RIILFH RQ D WUDQVLWLRQDO EDVLV  
&RQVWLWXWLRQ VKH GLG QRW PHHW WKH KDGH QRLW HSPHQ  
LQ WKH SURVHFXWRULDO SURKXWVLRQHIRDQDWRVDDVWUWHQ  
RIILFH RQ D WUDQVLWLRQDO EDVLV  
(VFREDU FRQWHQGV WKDW VKH KDV WKH ULJKW WR LU  
6XSUHPH &RXUW GHFLVLRQ DIIRUGV KHURZKMHULJWWDWRGDH  
ZDV PDGH SULRU WR WKH 1LQWK 7UDQVLWLRQDO 3URYLVLR  
KHU SRVLWLRQ DV EHLQJ\$EGLDWVDDHVGWFLRQLDQ EDVZKLFK (  
LV DQ RXWGDWHG GHFLVLRQ SUHFHGLQJ )LVFDODQGGLD¶V IL  
HVWDEOLVKPHQW RI )LVFDODQGGLD¶V QHZ QDWLRQDO FRQV  
UHFRJQLJHG WKDW SULQFLSOHV RI VHSUDWLRQ RI SRZHU  
UHVSHFW IRU KXPDQ ULJKWV VXSHUVHGHV DQ\ SXEOLF RIIL  
RIILFH

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+ \SRWKHWLFDO ^  
+ \SRWKHWLFDO ^  
+ \SRWKHWLFDO ^

B. The selection process of the appointment of Prosecutor General did not violate Article 24 in relation to Hinojosa and Mastro because President Obregón selected the Prosecutor General after prior scrutiny by an independent entity comprised of both state and civil society members to ensure impartiality and equal access to public office.

) LFDODQGLD TV VHOHFWLRQ SURFHVV IRU SURVHFWRU  
\$PHULFDQ & RQYHQWLRQ \$UWLFOH DQG GLG QRW VXEMHF  
pu

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A. Fiscalandi did not violate Article 8.1 and 25 of the Convention in relation to Article 1.1 and 2 because it provided Rex with a judicial proceeding regulated in the Judiciary Act of Fiscalandia.

3HWLWLRQHU D V V H U W W K W W K Z W U K L R Z L S R O N D U V F I S G H [ Z D V J L Y H C  
U L J K W W R D K H D H D Q B O D D G K Z O W L B H Y H Q H [ S O L F L W U H D V R Q L Q  
G H F L V L R Q W R U H P R Y H K L P 5 H [ P D L Q W D L Q V W K D W W K H G L V  
U D W L R Q D O H I R U W K H 3 V H U L R X V ' D Q G 3 L Q H [ F X V D E O H ' Q D W X  
O D Z + R Z H Y \$ U W L F O B L F L D U \ \$ F W R I ) L V F D O D Q G L D V W D W H V W K  
S R S H U W \ V W D W L Q J W K H U H D V R Q L Q J I R U W K H L U M X G J H P H  
I R U F H \$ U W L F O B L F L D U \ \$ F W R K H I Q V F D O D Q G L D W K D W I D L O L Q J W F  
U H D V R Q L Q J I R U M X G J H P H Q W V D Q G M X G L F L D O G H K X W L R Q V D  
Z H Q 5 H [ I D L O H G W R V W D W H W K H U H D V R Q L Q J I R U W K H I Q V F D O D Q G L D  
L D U U D Q W H G D Q L Q Y H V W L J D W L R Q  
, Q R U G H U W R G H W H U P L Q H L I \$ U W L F O H K D V E H H Q Y L R O  
G R P H V W L F M X G L F L D O W S K R F H G L W V F M X G L F L D O S U R F H H G L

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B. Fiscalandia complied with Article 8.1 and 25 of the Convention in relation to Article 1.1 because it provided Escobar with a formal hearing.

(VFREDU VRXJKW LQMXQFWLYH UHOLHI DVNLQJ WKH FRJ  
FDOO IRU FDQGLRDLWHQDZDQWFKGZDEXW HYLGHQWO\ UHYHUVH

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ZDUU+DQW MR]D D QG DDP WUKD W )LVFDODQGLD IDLOHG WR FR  
 +LQRM BQG 0 D VDU RDQ H[WUDRZLGLQ D X S D S H V D R L F U H W F R Q W H C  
 WKDW WKH LQD G P L V S U R E F O H G L H Q L W G H W K H P W K H U H G X H S U R  
 KDG OHIW WKHP ZLWK QR UHPHG\ W R D W Y M R C H M X B Q W P R I Q W K I H D  
 DGHTXDWHO\ VWDWH WKH LEHD V H G L O R R V K Z K L B K W K M V X H U B  
 EHORZ -DL Q B M R D F R W O G K D Y H F K D O O H Q J H G D Q \ L U U H J X O D U  
 YDFDWH ZKLFK ZRXOG KDYH EHHQ DQ H I I H F W L Y H U H P H G \ 6  
 % H U H Q D F O H D U O \ V W D W H G D V S I R L Q W P I D Q W Q R I Q W K H 3 U R V H F X  
 SRZHU RI WKH H[HFXLWLQ R W E V D Q K F Z K W L S R U R H H L G I Z O M I D  
 &RXUW KDV FODULILHG WKDW DQ XQIDYHFUDV D H L O X O L Q J Q L R U  
 LQH I I H F W L Y H Q H V V R I W K H U H P H G \ I L O H G R U W K D W > W K H \ @

7KH 6WDWH V UHPHGLHV PXVW PDNH DQ H I I H F W L Y H F R O  
 DQ G H Q V X U H I X O O H [ H U F L V H R I W K H S U R D W H K R X H I G W K H K O W S D  
 &RXUW VWDWHG WKDW WKH 1RPLQDWLQJ %RDUGV ZHUH <sup>3</sup>LG  
 JRYHUQPHQW WKXV WKHLU DFWLRQV FRXOG QRW EH FKDOO  
 ZRXOG KDYH EHHQ HIG EHIRUH WKH D S P G L W L W O D O O Y H W K H L D  
 &RQVWLWXWLRQDO &RXUW J R D Q G U H D V Q R W R & O V G K D W Y H L Q R M  
 LUUHJXODULW\ LQ WKH DSSRL E W P H Q Q P R M W R K H W B R Y D H F D W W R U

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*Id.*  
 &ODULILFDWLRQ 4XHVWLRQV \$QVZHUV SDJH  
 ( *JMémoli v. Argentina* 3UHOLPLQDU\ 2EMHFWLRQV 0HULWV \$ R S B W D W L S Q V D  
 VHU & 1R SDUD *Fermín Suárez v. Guatemala* 0HULWV 5HSDUDWLRQV DQG  
 -XGJPHQW , Q W H U 5 V H U & 1 R S D U D - X Q H  
*Chocrón Chocrón v. Venezuela* \$GPLVVLELOLWY B H S R U W \$ Q V H S R U W + 5 3 H W L W L R Q  
 ^ O D U  
 &ODULILFDWLRQ 4XHVWLRQV \$QVZHUV SDJH  
 +\SRWKHWLFDQ ^





IV. THE STATE OF FISCALANDIA FULFILLED ALL OF ITS LEGAL  
OBLIGATIONS TO RESPECT AND ENSURE THE RIGHT TO FREEDOM

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7HDP 1XPEHU

\$UWLF0HHDG LQ FRQMXQFWLRQ ZLWK \$UWLF0HV DQG  
HYHU\RQH KDV WKH ULJKW WR IUHHGRP RI H[SUHVVLRQ LG  
REOLJDWLRQ WR DGRSW PHDVXUHV WR HQVXUH WKH H[HUF  
:KHQ WKH 2\$6 DQSWHQDWRQ DO @

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LQIRUPDWLRQ UHJDUGLQJ JRYHUQPHQW GHFLVLRQV RU DFV  
YLRODWLRQV RI KXPDQ ULJKWV

, Q WKH ~~Case of~~ *Edwards et al. v. Chile*, WKH &RXUW IRXQG WKDW &KLOH  
ZKHQ LW UHIXVHG WR SURYLGH WKH 3HWLWLRQHUV ZLWK U  
SURMHFW DQG IDLOHG WR RIIHU D YDOLG MXVWLILFDWLRQ  
WKDW WKH ULJKW WR DFFHVV SXEOLF LQIRUPDWLRQ LQ 6W  
WKH LQIRUPDWLRQ VRXJKW ZDV D PDWWHU RI SXEOLF LQW  
FRQVLGHUDEOH SXEOLF GHEDWH GXH WKH LWV SRVVLEOH F  
GHYHORSPHQW ~~with~~ *with* WKH &RXUW FODULILHG WKDW LW G  
&KLOHDQ ODZV WR LWV DQDO\VLV RI ZKHWKHU WKH UHVWU  
EHFDXVH WKH OD

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C. Fiscalandia complied with established international law pertaining to the provision of certain limitations on the exercise of the rights and freedoms as necessary for the protection of public order, morals, and the rights and freedoms of others.

a. *The State's refusal to hand over part of the information requested by Petitioners does not constitute a violation of the right to the freedom of thought and expression because the disclosure would frustrate the purpose of Article 13 by impeding the rights, freedoms, and expression of others.*

(YHQ LI WKH LQIRUPDWLRQ VRXJKW LV ZLWKLQ WKH 3U

MXV ~~EVOL~~ \ ~~LOL~~ PLWHG WKH H[HUFLVH RI WKH ULJKW DV QHFHVVD

7KH LQWHUQDWLRQDO SULQFLSOHV UHFRJQL]HG LQ MXU

LQWHUQDWLRQDO V\ VWHPV KDYH UHFRJQL]HG SHUWOKLPW WDKWL B

\$UWLFOH RI WKH \$&+5 SURYLGHV WKDW FHUWDLQ UHVWU

E\ WKH &RQYHQWLRQ DUH SRVVLEOH E\ ODZV HQDFWHG IRU

SXEOLF RUGHU RU SURWHFWLRQ ~~HYFLRQ~~ ~~RI~~ ~~W~~ ~~H~~ ~~I~~ ~~S~~ ~~X~~ ~~D~~ ~~O~~ ~~L~~ ~~A~~ ~~D~~ ~~E~~ ~~V~~ ~~I~~ ~~Q~~ ~~W~~ ~~L~~ ~~V~~

7KH , \$&+5 KDV HVWDEOLVKHG WKDW WKH ULJKW WR IUH

WZR GLPHQVLRQV WKH <sup>3</sup>LQGLYLGXDO DQG VRFLDO RI WKH

WKDW PXVW ~~E~~ ~~H~~ ~~P~~ ~~X~~ ~~D~~ ~~W~~ ~~D~~ ~~Q~~ ~~M~~ ~~R~~ ~~X~~ ~~G~~ ~~O~~ ~~D~~ ~~E~~ ~~V~~ ~~H~~ ~~R~~ ~~K~~ ~~H~~ ~~W~~ ~~D~~ ~~W~~ ~~H~~ ; \$&+5 GUDZV

GLVWLQFWLRQ EHWZHHQ SULYDWH DQG ~~S~~ ~~W~~ ~~D~~ ~~O~~ ~~L~~ ~~L~~ ~~Q~~ ~~S~~ ~~H~~ ~~U~~ ~~K~~ ~~R~~ ~~V~~ ~~Q~~ ~~V~~ ~~D~~ ~~D~~

FLWL]HQ FDQ DVVHUV WKHLU ULJKW WR SULYDF\ ZKHQ

KDUPIXO WR WKDW ULJKW

\$V VXFK WKH ULJKWV RI PHPEHUV RI WKH 1RPLQDWLQJ

H[SUHVVLRQ PXVW EH JXDUDQWHG VLPXOWDQHRXVO\ E\ W

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\$PHULFDQ &RQYHQWLRQ ; DYULWU ~~PH~~ ~~OP~~ ~~HW~~ ~~K~~  
Rights Law and Theory :P 0DU\ / 5HY

, \$&+5 Case of López Álvarez X SUD QRWH Case of ~~S~~ ~~D~~ ~~U~~ ~~D~~ ~~C~~ ~~anese~~, VXSUD QRWH DQSDUD  
&ase of Herrera Ulloa VXSUD QRWH SDUDV

, \$&+5 5HSRUW RI WKH 2IILFH RI WKH 6SHFLDO 5DSRUWHXU ~~U~~ ~~Q~~ ~~W~~ ~~H~~ ~~U~~ ~~H~~ ~~H~~  
\$PHULFDQ /HJDO )UDPHZRUN 5HJDUGLQJ WKH 5LJKW WR )UHHGRP RI ([S



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